

# **Refer and Recommit**

## **A. GENERALLY; MOTIONS**

- § 1. In General
- § 2. Form and Effect of Motion
- § 3. Referral to Particular Committees
- § 4. Motions in Committee of the Whole

## **B. THE SIMPLE MOTION TO REFER**

- § 5. In General
- § 6. Precedence; Relation to Other Motions
- § 7. Debate on Motion

## **C. REFERRAL PENDING MOTION TO STRIKE ENACTING CLAUSE**

- § 8. In General

## **D. REFERRAL PENDING OR AFTER ORDERING THE PREVIOUS QUESTION**

- § 9. In General; When in Order
- § 10. Application of Motion
- § 11. Who May Offer Motion; Recognition
- § 12. Debate on Motion

## **E. RECOMMITTAL PENDING FINAL PASSAGE**

- § 13. In General
- § 14. Who May Offer Motion; Recognition
- § 15. Debate on Motion
- § 16. Effect of Special Rules

## **F. MOTIONS WITH INSTRUCTIONS**

- § 17. In General
- § 18. Instructions to Report ‘Forthwith’
- § 19. Dividing the Question on Instructions
- § 20. Instructions Subject to a Point of Order

## **Research References**

5 Hinds §§ 5521–5604

8 Cannon §§ 2695–2773

7 Deschler Ch 23 § 25

Manual §§ 420, 427, 448–451, 494, 782, 787, 788, 804, 808

## A. Generally; Motions

### § 1. In General

When bills are first introduced they are referred to one or more committees by direction of the Speaker. See INTRODUCTION AND REFERENCE OF BILLS. When a bill has been reported by a committee, it is referred to the appropriate calendar, also by direction of the Speaker. See CALENDARS.

Motions for the referral or recommitment of a matter to a committee are permitted at certain narrowly circumscribed stages of the legislative process. These motions are:

- The ordinary motion *to refer* when “a question is under debate” under Rule XVI clause 4. *Manual* § 782.
- The motion *to commit* a matter to a committee pending or after the ordering of the previous question thereon under Rule XVII clause 1. *Manual* § 804.
- The motion *to recommit* a bill or joint resolution to a committee after the previous question has been ordered to final passage under Rule XVI clause 4. *Manual* § 782.
- The motion *to refer* a bill to a committee pending a vote in the House on a motion to strike the enacting words as provided in Rule XXIII clause 7. *Manual* § 875.

### § 2. Form and Effect of Motion

MEMBER: Mr. Speaker, I move to refer (or commit or recommit) the bill (or resolution) to the Committee on \_\_\_\_\_.

The motion may be subject to debate, depending on the applicable rule, but the motion itself may not include a preamble or an argument or explanation. 5 Hinds § 5589; 8 Cannon § 2749. However, referral motions may be made with or without instructions. (See §§ 17–20, *infra*.) The “straight” motion (*i.e.*, without instructions) sends a measure to a specified committee and leaves the disposition thereof to the discretion of the committee. 7 Deschler Ch 23 § 25. But the committee must confine itself to the instructions, if there be any. 4 Hinds § 4404; 5 Hinds § 5526.

The motion to recommit with instructions does not take precedence over a simple motion to recommit. 91–2, Nov. 25, 1970, p 38997. 8 Cannon §§ 2714, 2758.

### § 3. Referral to Particular Committees

The motion to refer, commit, or recommit may specify that the reference shall be to a named standing committee (4 Hinds § 4401), or to two or more standing committees (94–1, June 19, 1975, p 19787), without regard to the usual rules governing committee jurisdiction. 4 Hinds § 4375; 5 Hinds § 5527. The motion may provide for referral to a committee other than that reporting the underlying measure. 8 Cannon § 2696.

A matter may be referred on motion to the Committee of the Whole (5 Hinds §§ 5552, 5553, 6631) or to a select committee, including one that is established pursuant to the motion (4 Hinds § 4401). But motions for the referral of a matter to a subcommittee are not in order. 8 Cannon § 2739.

### § 4. Motions in Committee of the Whole

The motions permitted by the House rules for the referral of a matter do not apply in Committee of the Whole. 4 Hinds § 4721; 8 Cannon §§ 2326, 2327. It is in order under certain circumstances in the Committee to move that the Committee rise and report back to the House with the *recommendation* that the measure under consideration be recommitted, but such a motion is entertained only at the completion of the reading of the bill for amendment (4 Hinds §§ 4761, 4762), and may be (and usually is) precluded by the language of a special rule from the Rules Committee. 7 Deschler Ch 23 § 26.5.

The House, while acting in the House *as in* Committee of the Whole, may refer a matter to a committee. 5 Hinds §§ 4931, 4932.

## B. The Simple Motion to Refer

### § 5. In General

#### Generally; When to Offer

A simple motion “to refer” is permitted by the first sentence of Rule XVI clause 4 when a question is “under debate.” *Manual* § 782. This motion is in order pending the consideration of the underlying matter. 102–2, Mar. 12, 1992, p \_\_\_\_\_. The motion may be offered by any Member, who need not qualify as being in opposition to the pending question. 7 Deschler Ch 23 § 25.

The ordinary motion to refer a proposition under this rule may be offered before the proponent of the proposition is recognized to control debate thereon. 99–1, Feb. 7, 1985, p 2220; 99–1, Mar. 4, 1985, p 4277. If the proposition is called up in the House under circumstances which would per-

mit it to be debated under the hour rule, a motion to refer under Rule XVI clause 4 is in order before debate begins. 96–1, Mar. 1, 1979, p 3746. The motion may not be offered while another Member holds the floor in debate. 6 Cannon § 468; 8 Cannon § 2742. Once disposed of, it cannot be offered again at the same stage of the question on the same day. Rule XVI clause 4. *Manual* § 782.

### **Application of Motion**

The simple motion to refer is permitted when “a question” is under consideration pursuant to Rule XVI clause 4. *Manual* § 782. A bill before the House under the general rules of the House is subject to the motion. The motion is applicable to bills called up from the House Calendar, such as resolutions from the Committee on House Oversight, resolutions adopting the rules of the House, and to articles of impeachment (6 Cannon § 549). The motion has been applied to a vetoed bill (4 Hinds §§ 3550, 3551), with or without the veto message (7 Cannon § 1104). (Referral of Presidential messages, see *Manual* § 884.)

A motion to refer is also applicable to resolutions raising a question of the privileges of the House (99–1, Feb. 7, 1985, p 2220; 99–1, Mar. 4, 1985, p 4277), such as:

- A resolution involving the expulsion of a Member. 96–1, Mar. 1, 1979, p 3746.
- A resolution alleging the improper representation by House counsel of a legal position of a group of Members of the House in a brief filed in the Supreme Court. 101–2, Mar. 22, 1990, p \_\_\_\_.
- A resolution instructing the disclosure of information concerning the operation of a bank in the office of the Sergeant at Arms. 102–2, Mar. 12, 1992, p \_\_\_\_.

### **Referral With Instructions**

The motion to refer may include instructions or be amended to include instructions. 5 Hinds § 5521. If the previous question is rejected on the motion, amendments offering proper instructions to the motion are in order. 97–2, Aug. 13, 1982, p 20978. Instructions generally, see §§ 17–20, *infra*.

## **§ 6. Precedence; Relation to Other Motions**

The simple motion to refer under Rule XVI clause 4 takes precedence over the motions to amend or to postpone indefinitely, but yields to the motions to adjourn, to table, for the previous question, or to postpone to a day certain. *Manual* § 782. Thus, since the motion to refer takes precedence over the motion to amend, the Chair may recognize the Member seeking to offer

the preferential motion before the less preferential motion is read. 97–2, Aug. 13, 1982, pp 20969, 20975–78.

The motion for the previous question takes precedence over the motion to refer under clause 4 Rule XVI. *Manual* § 782. But where the motion to refer under that rule is preempted by the motion for the previous question on a resolution on which there has been no debate, rejection of the motion for the previous question leaves the motion to refer pending. 101–2, Mar. 22, 1990, p \_\_\_\_.

Pursuant to Rule XVI clause 4, the motion to lay on the table takes precedence over, and is applicable to, the motion to refer. 97–2, Aug. 13, 1982, p 20977.

### § 7. Debate on Motion

A motion to refer under clause 4 of Rule XVI (before the previous question is ordered) is separately debatable pending the consideration of the underlying matter. 102–2, Mar. 12, 1992, p \_\_\_\_\_. The motion is debatable under the hour rule. 101–2, Mar. 22, 1990, p \_\_\_\_\_. The scope of the debate is narrowly confined and may not extend to the merits of the underlying matter. 5 Hinds §§ 5565–5568; 6 Cannon §§ 65, 549. Such debate is terminated by the adoption of the previous question on the motion. 7 Deschler Ch 23 § 25.

## C. Referral Pending Motion to Strike Enacting Clause

### § 8. In General

A House rule permits the offering of a motion to refer a measure to a committee, with or without instructions, pending concurrence by the House in a recommendation from the Committee of the Whole that the enacting clause of a measure be stricken. Rule XXIII clause 7. *Manual* § 875. As noted elsewhere, the recommendation that the enacting clause be stricken may interrupt and supersede the offering of amendments in Committee of the Whole, and if agreed to by the House, defeats the bill. See COMMITTEES OF THE WHOLE.

The motion to refer permitted by this rule is to be distinguished from the motion to recommit that may be made pending final passage of the bill under Rule XVI clause 4. The motion to recommit pending passage insures the right of the minority to have a final opportunity to perfect the bill or to return it to committee. § 14, *infra*. In contrast, the motion to refer under Rule XXIII comes before action on the recommendation that the enacting

clause be stricken and allows the friends of the original bill to avert its demise by referring it to committee where it may be considered in the light of the House action. 8 Cannon § 2629.

The motion to refer permitted by Rule XXIII may include instructions to report back forthwith with an amendment to the underlying bill. 103–2, Apr. 14, 1994, p \_\_\_\_.

The recommendation that the enacting clause be stricken may not be combined with a recommendation that the bill be recommitted to a committee. Deschler Ch 19 § 10.10.

### **Automatic Referral**

When the House disagrees to the recommendation of the Committee in striking out the enacting words and does not refer the bill under the provisions of the rule, it goes back to the Committee of the Whole, where it becomes unfinished business. This process is automatic and does not require a motion. 5 Hinds §§ 5326, 5345, 5346; 8 Cannon § 2633.

## **D. Referral Pending or After Ordering the Previous Question**

### **§ 9. In General; When in Order**

The motion “to commit” is authorized under the rule governing the motion for the previous question. Clause 1 Rule XVII. Under this rule, the motion is in order pending the motion for or after the previous question has been ordered on passage or adoption. The motion may be made with or without instructions and may provide for referral to a standing or select committee. *Manual* § 804. It is not necessary that the underlying proposition has been reported from a committee. 95–2, July 12, 1978, p 20504. Repetition of the motion is not permitted. Only one proper motion to commit is in order under the rule. 5 Hinds § 5577.

If the previous question has been ordered on a proposition on which there has been no debate, and a Member insists on the 40 minutes of debate permitted by rule in such cases (see *Manual* § 907) the motion to commit should be made only after such debate. 99–1, May 8, 1985, p 11073.

The motion to commit may be made pending the demand for the previous question on passage or adoption (5 Hinds § 5576), and at this point is subject to the motion to table. When the previous question is ordered on all stages of a bill to final passage, the motion to commit is not in order before the engrossment or third reading. 5 Hinds §§ 5578–5581.

### Instructions With Motion

A motion to commit under Rule XVII clause 1 may be offered with instructions, such as an instruction to report back with an amendment. 98–1, Jan. 3, 1983, p 49; 99–1, Jan. 3, 1985, p 411. Thus, a motion to commit a resolution electing minority members to standing committees may be offered with instructions to a select committee to report back “forthwith” with an amendment adding the names of additional Members. 97–1, Jan. 28, 1981, p 1146. Instructions generally, see §§ 17–20, *infra*.

### Amendments to Motion

A motion to commit may be amended, as by adding instructions, unless such amendment is precluded by ordering the previous question on the motion. 5 Hinds §§ 5582–5584; 8 Cannon § 2695.

## § 10. Application of Motion

The rule authorizing the motion to commit pending or after the previous question is construed as applying across a broad range of legislative business, including:

- Bills and joint resolutions. 5 Hinds § 5576.
- Simple resolutions (5 Hinds § 5573) and concurrent resolutions (96–1, Nov. 28, 1979, p 33914).
- Conference reports if the other House has not discharged its managers. See CONFERENCE BETWEEN THE HOUSES.
- Senate amendments being considered in the House before the stage of disagreement. 5 Hinds § 5575. *Manual* § 808.
- A resolution stating a question of privilege (98–1, June 29, 1983, p 18104), such as a disciplinary resolution (101–2, July 26, 1990, p \_\_\_\_), or a resolution certifying the contempt of a committee witness (92–1, July 13, 1971, pp 24723, 24752).
- A resolution electing minority members to standing committees. 97–1, Jan. 28, 1981, p 1146.

The motion to commit may not be separately applied to amendments to the underlying proposition. 7 Deschler Ch 23 § 25. When the previous question has been ordered on a simple resolution and a pending amendment thereto, the motion to commit should be offered after the vote on the amendment. 5 Hinds §§ 5585–5588.

The motion does not apply to special orders reported by the Rules Committee. 5 Hinds §§ 5598–5601; 89–1, July 26, 1965, p 18087. A House rule prevents the Speaker from entertaining dilatory motions until Rules Committee reports are fully disposed of. Rule XI clause 4(b). If the previous

question is rejected, this restriction no longer strictly applies. *Manual* § 729b.

### § 11. Who May Offer Motion; Recognition

As noted elsewhere in this article, under clause 4 of Rule XVI the prior right to recognition on a motion to recommit a bill pending final passage is given to an opponent of the bill. § 14, *infra*. This principle is also applied to a motion to commit under Rule XVII clause 1 pending the demand for, or the ordering of, the previous question. 7 Deschler Ch 23 § 25. Thus, an opponent, preferably the Minority Leader or a minority member on the reporting committee, in order of seniority, has priority of recognition to offer the motion under Rule XVII. See *Manual* §§ 788, 808. However, if the underlying matter is a resolution offered as a question of the privileges of the House, the Member offering the motion to commit need not qualify as stating his opposition to the resolution. 98–1, Apr. 28, 1983, p 10417.

It is the prerogative of the minority, when the House is operating under general parliamentary procedure, to offer a motion to commit the resolution adopting the rules, but the minority member offering the motion need not qualify as opposed to the resolution. 98–1, Jan. 3, 1983, p 49; 99–1, Jan. 3, 1985, p 410–413; 101–1, Jan. 3, 1989, p 81.

### § 12. Debate on Motion

Under clause 1 of Rule XVII a motion to commit is not separately debatable after the previous question is ordered on the underlying proposition. 5 Hinds § 5582; 102–2, Mar. 12, 1992, p \_\_\_\_\_. Thus, the previous question having been ordered on a resolution prior to adoption of the rules, the motion to commit—with or without instructions—is not debatable. 97–1, Jan. 5, 1981, p 112. As to the debate permitted on a motion to recommit pending final passage of a bill or joint resolution, see § 15, *infra*.

## E. Recommittal Pending Final Passage

### § 13. In General

The motion to recommit a bill or joint resolution after the previous question has been ordered on the question of final passage is authorized by clause 4 Rule XVI. *Manual* § 782. This rule, which includes provisions permitting debate on the motion (§ 15, *infra*), does not apply to simple resolutions, concurrent resolutions, or to conference reports. *Manual* § 787.



**When in Order**

The motion to recommit a bill is properly made after the engrossment and third reading of the bill. 87–1, June 12, 1961, p 10080. A Member seeking to offer the motion must be on his feet addressing the Chair after the engrossment and third reading of the bill and before the Chair puts the question on passage of the bill. 98–2, June 6, 1984, p 15164. The motion comes too late when the Chair has put the question on passage and has announced the apparent result of the vote. 91–1, Dec. 11, 1969, p 38536.

**Repetition of Motion**

The authorizing rule specifies that *one* motion to recommit is in order, the previous question having been ordered on passage. *Manual* § 782. But if the motion is ruled out on a point of order, its proponent or another qualifying Member is entitled to offer a proper motion to recommit. 8 Cannon § 2713; 102–1, Sept. 17, 1991, p \_\_\_\_; 102–2, Apr. 1, 1992, p \_\_\_\_.

**Amendments to Motion**

A motion to recommit is subject to amendment until the previous question is ordered on the motion. 91–1, Aug. 11, 1969, p 23143. If the previous question on the motion is voted down, the motion is open to amendment. 90–2, June 26, 1968, p 18940; 91–2, May 6, 1970, p 14490. The amendment must be germane to the pending measure and not necessarily to the original motion (see § 17, *infra*). Any point of order against an amendment to the motion should be raised immediately following the reading of the amendment. 93–2, Feb. 5, 1974, pp 2079–81.

**§ 14. Who May Offer Motion; Recognition**

THE SPEAKER: Is the gentleman opposed to the measure?

This is the threshold question to be put by the Chair in determining a Member's qualifications to offer a motion to recommit. Deschler Ch 23 § 25; 87–1, Mar. 1, 1961, pp 2965, 2989. At one time the applicable rule was construed to give the friends of the bill an opportunity to correct any errors in the bill before the House voted on passage. 8 Cannon § 2762. Under the modern rule (Rule XVI clause 4), the Speaker is required to give preference in recognition to a Member who is opposed to the bill (*Manual* § 782), whether the motion is made with or without instructions (*Manual* § 788). This rules change was intended to allow the minority a final opportunity to return the bill to committee or (through instructions) to have its version of the bill brought to a vote. 7 Deschler Ch 23 § 25.

In recognizing a Member to move to recommit, the Chair does not attempt to assess the degree of that Member's opposition. 102-1, Oct. 23, 1991, p \_\_\_\_\_. The Chair makes no distinction between Members who are unqualifiedly opposed and those who phrase their opposition "to the bill in its present form." 91-1, Oct. 3, 1969, p 28487; 91-2, Apr. 16, 1970, pp 12063, 12092.

Among Members opposed to the bill, the Speaker will first look to the Minority Leader (*Manual* § 788), then to minority members of the committee reporting the bill in their order of seniority on the committee, then to other members of the minority, and finally to majority members opposed to the bill. 94-1, July 10, 1975, pp 22014, 22015. See also 90-1, June 13, 1967, p 15587; 90-2, Apr. 22, 1968, p 10126-30; 96-1, Apr. 24, 1979, p 8360. These principles on recognition are followed even where a bill under consideration was not reported from committee. A senior minority member of the committee of jurisdiction would still be recognized by the Speaker for a motion to recommit if he qualifies as opposed to the measure. See *Deschler's Procedure*, Ch 23 § 11. It is not too late for a senior member of the committee to seek recognition where another minority member has qualified as opposed to the bill but where his motion has not yet been read by the Clerk. 96-1, Apr. 24, 1979, p 8360.

### **Recognition for Amendments to Motion**

If the previous question is voted down on a motion to recommit, the person offering an amendment to the motion would not necessarily have to qualify as being opposed to the bill. 90-2, June 26, 1968, p 18940. A Member who in the Speaker's determination lead the opposition to the previous question on the motion to recommit, such as the chairman of the committee reporting the bill, is entitled to offer an amendment to the motion regardless of party affiliation. 97-1, June 26, 1981, pp 14791-93.

## **§ 15. Debate on Motion**

### **Generally**

The straight motion to recommit is not debatable where made pending the previous question on the measure or after the previous question has been ordered. 5 Hinds § 5582; 7 Deschler Ch 23 § 25. Under Rule XVI clause 4 the motion to recommit after the previous question is ordered on final passage is rendered debatable only by unanimous consent (99-1, Dec. 4, 1985, p 34160) or by the inclusion of instructions in the motion (102-2, Feb. 27, 1992, p \_\_\_\_). Under that rule, a motion to recommit with instructions is debatable for 10 minutes, five minutes in favor of the motion and five op-

posed. *Manual* § 782; 92–1, June 2, 1971, pp 17491–95; 92–1, Sept. 30, 1971, pp 34345–47. In the 99th Congress the rule was amended to permit one hour of debate, rather than 10 minutes, upon demand of the majority floor manager of the bill, time to be equally divided. 99–1, Jan. 3, 1985, p 393.

Rule XVI clause 4 permits debate on a motion to recommit only where the underlying measure is a bill or joint resolution. 93–1, Nov. 15, 1973, pp 37141, 37151; 95–2, Oct. 13, 1978, p 37017. The debate permitted by the rule is inapplicable to a motion to recommit a concurrent resolution under Rule XVII clause 1. 94–1, May 7, 1975, pp 13366, 13367.

### **Control of Debate Time**

The Member recognized for five minutes in support of his motion to recommit with instructions must use or yield back all of that time, and may not reserve a portion thereof. 97–1, June 26, 1981, p 14792. But the Member offering the motion may, at the conclusion of the 10 minutes of debate, yield to another Member to offer an amendment to the motion if the previous question has not been ordered on the motion. 93–1, July 19, 1973, pp 24966, 24967.

A Member recognized for five minutes in opposition to a motion to recommit with instructions controls the floor for debate only and may not yield to another Member to offer an amendment to the motion to recommit. 93–1, July 19, 1973, pp 24966, 24967. Where debate time on a motion to recommit with instructions has been lengthened by a special rule, the Chair has allowed time to be allocated and controlled and has permitted the Member controlling time in opposition to close debate. 95–2, Aug. 10, 1978, p 25500.

### **§ 16. Effect of Special Rules**

The Committee on Rules is precluded from reporting a special order which would prevent the motion to recommit from being made as provided in Rule XVI clause 4. Such special orders are precluded by Rule XI clause 4(b). *Manual* §§ 729a, 729c. Clause 4(b) was amended in the 104th Congress to further prohibit the Committee on Rules from denying the Minority Leader or his designee the right to include proper amendatory instructions in a motion to recommit (§ 210, H. Res. 6, 104–1, Jan. 4, 1995, p \_\_\_\_).

The rule prohibiting special orders that preclude the motion to recommit under Rule XVI clause 4 is applicable only to the recommittal of bills and joint resolutions, and does not apply to special orders restricting the recommittal of simple or concurrent resolutions. See 100–2, May 4, 1988, p 9865.

## F. Motions With Instructions

### § 17. In General

The motion to refer, commit, or recommit may include instructions. Such instructions may direct the designated committee(s) to take specified actions (7 Deschler Ch 23 § 25), such as to study a subject germane to the underlying measure. 101–2, Mar. 29, 1990, p \_\_\_\_\_. The committee may be instructed:

- To report “forthwith” with an amendment. § 18, *infra*.
- To report the bill back promptly with certain amendments. 102–1, Oct. 29, 1991, p \_\_\_\_; 102–2, June 25, 1992, p \_\_\_\_; 102–2, July 31, 1992, p \_\_\_\_.
- To consider the bill in relation to the President’s energy message and to promptly hold hearings thereon. 95–1, Apr. 29, 1977, p 12886.
- To hold hearings and promptly report recommendations on how to amortize the cost of the bill. 101–2, Mar. 29, 1990, p \_\_\_\_.
- To hold hearings on a proposal and to solicit the views of the Attorney General. 89–2, Aug. 22, 1966, p 20119.
- To examine the sufficiency of a contempt citation and report back to the House. 89–2, Oct. 18, 1966, p 27484.

### Amendments to Instructions

A motion to recommit with instructions may be amended if the previous question has not been ordered thereon. Indeed, a substitute amendment which strikes out all of the proposed instructions and inserts others in their place is in order if germane to the pending measure, and does not violate the right of the minority to move to recommit. 8 Cannon § 2759. An amendment offered to an instruction must be germane to the bill, not necessarily to the original instruction. See *Manual* § 796.

### § 18. Instructions to Report “Forthwith”

The House may recommit a bill to committee with instructions to report it back “forthwith” with an amendment. 87–2, Oct. 3, 1962, p 21897; 88–1, Dec. 16, 1963, pp 24757–59; 89–2, June 1, 1966, p 11905. Such instructions must be complied with immediately. 87–1, Sept. 13, 1961, p 19208. The House has used this procedure even with respect to an amendment in the nature of a substitute for the entire bill. 92–2, Feb. 9, 1972, pp 3451–53.

Having been instructed to report “forthwith,” the committee is not required to convene and consider the measure. The chairman or other designated committee member immediately rises and announces that pursuant

to the instructions of the House, he is reporting the measure back to the House with the instructed amendment. 7 Deschler Ch 23 § 25. The House then votes on the amendment and, if agreed to, again on engrossment and third reading of the bill prior to final passage, as shown in the illustrative proceedings below. 101–1, June 15, 1989, pp 12164, 12165.

THE SPEAKER: The question is on the engrossment and third reading of the bill.

*Note:* The question is then put. If the motion carries, the bill is ordered to be engrossed and read a third time, and is read the third time.

MEMBER: I offer a motion to recommit.

THE SPEAKER: Is the gentleman opposed to the bill?

MEMBER: I am, Mr. Speaker.

THE SPEAKER: The gentleman qualifies. The Clerk will report the motion to recommit.

THE CLERK: MR. \_\_\_\_\_ of \_\_\_\_\_ moves to recommit the bill, H.R. \_\_\_\_\_, to the Committee on \_\_\_\_\_ with instructions to report the bill forthwith with the following amendment: \_\_\_\_\_

*Note:* The motion is subject to 10 minutes of debate or up to one hour if demanded by the floor manager of the bill. § 15, *supra*.

THE SPEAKER: Without objection, the previous question is ordered. . . . The question is on the motion to recommit.

*Note:* A vote having been taken and announced in the affirmative, the chairman of the designated committee rises:

THE CHAIRMAN: Mr. Speaker, pursuant to the instructions of the House on the motion to recommit I report back the bill, H.R. \_\_\_\_\_, with an amendment [*the amendment is read in the House by the Clerk*].

THE SPEAKER: The question is on the amendment.

*Note:* The amendment is voted on; if agreed to, the Speaker puts the question on engrossment and third reading of the bill; if agreed to, the question is on passage of the bill.

## § 19. Dividing the Question on Instructions

On a motion to recommit with instructions it is not in order to demand a separate vote on the instructions or various branches thereof. 5 Hinds §§ 6134–6137; 8 Cannon §§ 2737, 3170. However, when a bill is reported back to the House with one or more amendments pursuant to such instructions, a division of the question may be demanded on the amendment(s) if otherwise in a divisible form. See 103–1, Jan. 5, 1993, p \_\_\_\_\_. Generally, see DIVISION OF THE QUESTION FOR VOTING.

**§ 20. Instructions Subject to a Point of Order**

A motion to recommit may not propose to do that which may not be done by amendment under the rules of the House. 5 Hinds §§ 5529–5541; 101–1, Aug. 1, 1989, p 17156. It is not in order to do indirectly—by instructions to report a particular amendment—that which may not be done directly by way of amendment. 98–1, Sept. 19, 1983, p 24646. A point of order will lie, for example, if the motion proposes an amendment that is not germane to the bill. 102–2, Sept. 23, 1992, p \_\_\_\_\_. So too, if any portion of a motion to recommit with instructions constitutes “legislation on a general appropriation bill,” the entire motion is out of order. 94–2, Sept. 1, 1976, p 20884. Also, when a motion to recommit a general appropriation bill is offered which includes a “limitation” not considered in Committee of the Whole, it is subject to a point of order under Rule XXI clause 2(c). 101–1, Aug. 1, 1989, pp 17156–60. Instructions that require the reporting of an amendment that is contrary to a special order from the Rules Committee may also be ruled out. 7 Deschler Ch 23 § 25.

A motion to recommit may not include instructions to modify any part of an amendment previously agreed to by the House. 8 Cannon §§ 2712, 2715, 2720. Thus, where the House has adopted an amendment in the nature of a substitute, that text cannot be further amended by way of a motion to recommit absent a special rule permitting amendatory instructions. 86–2, May 4, 1960, p 9416; 89–1, Sept. 29, 1965, p 25438. If the special order reported from the Rules Committee permits a motion to recommit “with or without instructions,” amendatory instructions are protected, even if a substitute is adopted during the amendment process.

In the 104th Congress, the authority of the Committee on Rules to report special orders which deny a recommittal motion with instructions was circumscribed. The current rule specifies that the committee may not report a special rule denying to the Minority Leader or his designee the right to offer a motion with germane instructions. Rule XI clause 4(b). *Manual* § 729a. Since this change, the insertion of the phrase “one motion to recommit *with or without instructions*” has become routine in special orders reported by the Committee on Rules.

A motion to recommit a bill to a committee with instructions that the bill be reported back forthwith with specified amendments is not in order if the adoption of the amendments would violate section 311(a) of the Congressional Budget Act by causing revenues to fall below the floor specified in the applicable concurrent resolution on the budget. 98–1, Apr. 20, 1983, p 9151.

The Chair does not anticipate the content of a motion to recommit and will not rule in advance as to whether particular instructions which might be offered as part of such a motion would be in order. 91-1, Dec. 10, 1969, pp 38123, 38130; 97-2, Aug. 13, 1982, p 20978.